HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

WPSS No. 3474 of 2001

Prem Singh and others
Vs
Dugdhshala Vikas Uttaranchal
and others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 24.08.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 3474 (SS) OF 2001

1. Prem Singh,
   S/o Shri Ghanshyam Singh,
2. Bhagwan Singh,
   S/o Sri Ram Chandar,
3. Shanti Prasad,
   S/o Shri Govardhan,
4. Kamla Ram,
   S/o Sri Maya Ram,
5. Indu Ballabh,
   S/o Shri Satya Narain,
6. Bal Krishna,
   S/o Shri Radhe Shyam,
7. Smt. Bhuvneshwari,
   W/o Shri Jagdamba Prasad,
   All above residents of Village Matli,
   Patti Matli, District Uttarkashi. .....Petitioners.

Versus

1. Dugdhshala Vikas, Uttaranchal, through Dugdh Commissioner, Dehradun.
2. Manager/Up Dugdhshala Vikas Adhikari, Dugdhshala Vikas, Uttaranchal, Uttarkashi.
3. District Magistrate, Uttarkashi. .....Respondents.

Dated: 24.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Rajendra Dobhal, Advocate for the petitioner and Standing Counsel for the respondents.

2. By the present writ petition, the petitioner has prayed for a writ mandamus commanding the respondent no. 2 to consider the case of the petitioner for their appointment on Class-III and Class-IV post in the office of respondent no.2.

3. Briefly stated, petitioners were inclined to give their land for construction of building of Dugdhshala in Village Matli, District Uttarkashi in meeting held on 25.02.1991 and 12.03.1991.

4. It was agreed between the respondents and the representatives villagers and petitioners that if the respondents acquired the land of petitioner, they will have to provide the job to the petitioners or one of family members of their family in the office of the respondent no. 2. The minutes of the meeting are to the following effects:-

"iLrko l[;k &1

मातली ग्राम, जनपद उत्तरका ाी से 30 कास्तकार जो अपनी जीमल उत्तका ाी दुग्ध संघ के लिए देना चाहते है, के खसरा खतौनी के अनुसार प्रत्येक कास्तकार के हिस्से की सूचना तहसीलदार डुण्डा से प्राप्त करने पर विचार।

सर्वसम्मति से निर्णय लिया गया कि प्रस्तावित दुग्ध ाला निर्माण हेतु भूमि में जितने कास्तकारों की जमीन है, के खसरा खतौनी व नक्ा आ आदि का विवरण दिनांक 4–3–1991 के बाद तहसीलदार डुण्डा से प्राप्त किया जाय।

"iLrko l[;k &2

मातली ग्राम के ग्राम प्रधान की अध्यक्षता में उपरोक्त प्रस्तावित पांच सदस्यों की कमेटी द्वारा, जिनकी जमीन दुग्ध ाला निर्माण हेतु ली जा रही है, के व्यक्तियों को योग्यता के अनुसार, दुग्ध संध की सेवा में लेने पर विचार।

इस सम्बन्ध में निर्णय लिया गया कि दुग्ध संघ, उत्तरका ाी में जितने भी पद दुग्ध आयुक्त द्वारा स्वीकृत किये जायेंगे तथा उक्त पद पर दुग्ध आयुक्त द्वारा निर्धारित योग्यता एवं चयन

प्रक्रिया के अनुसार भूमि देने वाले परिवार के सदस्यों को नौकरी वरीयता दी जायेगी। प्रत्येक परिवार से केवल एक व्यक्ति को ही नौकरी देने का प्रस्ताव है। जो पद टेक्निकल एवं उच्च ि ाक्षा के है और उस योग्यता के अनुसार भूमि अर्जित परिवारों के सदस्य नहीं मिल पाते है, ऐसे पद बाहर से भरे जायेंगे।

"iLrko l[;k &3

भूमि की क्रय दर निर्धारित करने पर विचार।

ग्रम प्रधान मातली श्री चमन लाल भााह ने जिलाधिकारी, उत्तरका ाी महोदय के पत्र संख्या मेमो 89–90 दिनांक 17 जुलाई 90 के पत्र का सन्दर्भ दिया, जिसके अनुयार मु0 12,000–00 प्रति नाली का दर बताया गया है। इस पत्र की प्रति कलेक्ट्रेट से प्राप्त की जाये तथा सब रजिस्ट्रार, उत्तरका ाी से भी इस क्षेत्र में रजिस्ट्री की गयी जमीन का बाजारू मूल्य की जानकारी कर उसे भी अगली बैठक मे रखा जाय तथा अगली बैठक दिनांक 12–3–1991 को समय 4 बजे उप दुग्ध ााला विकास अधिकारी, ज्ञानसू, उत्तरका ाी के कार्यालय में होना नि ि चत किया जाता है। भूमि क्रय के दर की अन्तिम रपट देने हेतु समस्त कागजात इस बीच एकत्रित कर दिये जावें।"

5. Aggrieved by the said proposal, they have executed the registered sale deed, which have been annexed along with the writ petition as Annexures No. 4, 6, 7, 8, 9 and 10 to the writ petition.

6. The said legitimate expectation was given to the petitioner as will appear from the letter dated 8th July, 1991 to the following effect:-

"6. That thereafter on 8.7.1991 the respondent no. 2 wrote a letter to Gram Pradhan of Village Matli, District Uttarakashi to the effect that one member of family, whose land have been acquired, will be provided jobs in the department, after relaxation of their age up to 40 years."

7. The grievance of the petitioners is that the appointment letters have already been issued to the following persons on the Class III and Class-IV Posts:-

1) Balak Ram S/o Shri Radhe Shyam,
2) Dhani Lal, S/o Shri Sohan Lal,
3) Jai Singh, S/o Sri Narain Singh,
4) Sunder Lal, S/o Shri Galthya,
5) Ganesh Lal, S/o Shri Retti Lal,
6) Vijay Singh S/o Surat Singh,
7) Jagmohan Singh, S/o Shri Jaipal Singh,
8) Manmohan Singh, S/o Shri Jaipal Singh,
9) Smt. Rajni D/o Shri Ambika Prasad,
10) Rukum Singh, S/o Shri Tika Ram,
11) Smt. Urmila Devi, W/o Shri Parmanand Nautiyal,
12) Roshan Kapoor, S/o Shri Sundar Lal.

8. Their lands have already been acquired. However, further grievance of the petitioner is that they have not been issued the appointment letter.

9. Sri V.K. Bisht appearing for the respondents has submitted that they are some of them have been given the appointment and some of them have not and the proposal has been sent. The said fact has been mentioned in paragraph 4 of the supplementary counter affidavit. The same is quoted below:-

> *"4. That copy of the order dated 8-11-2005 was sent to respondent no. 1 by the answering respondent on 20-11-2005. The respondent no. 1 took decision in the matter of appointment of the petitioner no. 1,3,4 and 5 on 27.01.2006."*

10. And the decision has been taken by the Director Development on 27.10.2006 to the following effect:-

"ऐसी स्थिति में नई नियुक्ति हेतु अनुमोदन चाहने का क्या औचित्य हैं? नियुक्ति हेतु रिक्त पद का होना आव यक है जबकि आपकी संख्या में स्वीकृत 27 पदों के सापे ा 46 कर्मचारी कार्यरत है। अतः उपरोक्त स्थिति में किसी भी प्रकार की नई नियुक्ति हेतु अनुमोदन दिया जाना संभव नही ं है।

यद्यपि माननीय उच्च न्यायालय द्वारा पारित अंतरिम आदे ा तथा दिनांक 25–02–1991 को क्रय कमेटी तथा विक्रय कमेटी के समक्ष हुए समझौते का सम्मान करते हुए भविश्य में किसी भी प्रकार की नियुक्ति होने पर उपरोक्त वर्णित याचिगणों को वरीयता दी जायें।"

11. The Hon'ble Apex Court in the case of ***Kapila Hingdorani Vs. State of Bihar 2003(7) AIC18 (SC) 194*** has observed as under:-:

"Paragraph – 50: The term 'life' used in Article 21 of the Constitution of India has a wide and far reaching concept. It includes livelihood and so many other facets thereof. 'Life', as observed by Filed, J. in Munn V. Illinois [1877)94)US 1131] means something more than mere animal existence and the inhibition against the deprivation of life extends to all those limits and facilities by which life is enjoyed. [See Board of Trustees of the Port of Bombay Vs. Dilipkumar Raghavendranath Nadkarni and others [1983(1) SCC 124] Olga Tellis and others Vs Bombay Municipal Corporation and others [1985(3) SCC 545]."

12. In view of the aforesaid, respondent no. 1 is directed to finalize the appointment/regularize complete the

formalities within a period of two months if possible by giving appointment in pursuance of the aforesaid judgment,

13. Writ petition is disposed of. No order as to cost.

(Rajesh Tandon, J.)

24.08.2006
Rathour